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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,609	04/03/2001	Earle Harry Sherrod	659/695	3279

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EXAMINER

REICHLE, KARIN M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 07/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/825609

Applicant(s)

Sherrod et al

Examiner

Reiche

Group Art Unit

371

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.

- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.

- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

☒ Responsive to communication(s) filed on 4-3-01

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-20 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The drawing(s) filed on 4-3-01 is/are objected to by the Examiner.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 5 ☐ Interview Summary, PTO-413

☒ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 3761

1. The drawings are objected to because in Figure 1 the line from 15 should be dashed to denote underlying structure. This also applies to the lines from 42, 50 and 62 in Figures 2 and 3 and 142, 150 and 160 in Figure 5. Where is W(see page 6, line 3 of the specification)? In figures 2 and 3, there are lines to structure which are undenoted. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. Claims 1-20 are objected to because of the following informalities: In the claims, “-facing”(all) should be -- -faceable--. In claim 12, lines 5-6 and 8-9, “a .... surface” should be --a first primary surface and a second primary surface--. Appropriate correction is required.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Uni-Charm, EP ‘110.

See Figures 4, 6B and 7B, col. 4, lines 13-15, and 43-44, col. 5., lines 6-11, col. 6, lines 3-8 and 54 et seq, col. 7, lines 31-39, col. 8, lines 30-39, col. 9, lines 40-42, i.e. layer 22 of uppermost insert is delay layer whose surface area of the primary surfaces thereof is less than that of the absorbent layer due to perforations therein.

5. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Nilsson et al.

Art Unit: 3761

See Figures 1-4 and 13-17, col. 2, lines 34-75, col. 5, lines 26-29, i.e barrier layer is layer 3 in one of the at least two members and with regard to claims 10 and 11, the barrier layer is the layer 3 in the middle member of at least 3 members. With regard to claims 1 and 12, the preamble and the functional language in claims 8 and 9, the structure of the claimed attachment portion and the attachment portion of Nilsson et al is the same and thus the claimed properties, functions and capabilities of such claimed structure is also deemed inherent in the same structure of Nilsson et al, i.e. attachment to anything including an absorbent garment. See MPEP 2012.01. It is noted that Nilsson et al teaches attachment to a garment or clothing in the form of drawers.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other prior art also teaches delay layers. It is noted that while Nilsson et al does not explicitly teach the drawers are absorbent, it is well known that woman's undergarments or drawers are made of absorbent fabrics.

7. Any inquiry concerning this communication should be directed to K. M. Reichle at telephone number 703-308-2617. The Examiner's regular work schedule is Monday-Thursday.

KMR

July 8, 2002

*K. M. Reichle*  
Karl M. Reichle  
Patent Examiner